

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TERESA L NESTOR, individually, and as Personal Representative of the Estate of Kelly R. Nestor, deceased, and as parent and next friend for the benefit of her minor Children, G. N. , E. N. and K. N., and for the benefit of others entitled to recover under West Virginia Code, §§ 23-4-2; 23-4-10; 55-7-6; and 55-7-8a(c), including those listed above, and also including Catherin Nestor, the mother of Kelly R. Nestor, and his siblings, Jeff Nestor, Don Nestor, Pam Waugh, Mary Knotts, Teresa Surock, and Nancy Simpson.

CASE NO: 1:11-cv-00026-IMK

(Removed from the Circuit Court of Preston County, West Virginia, at Civil Action No. 11-C-40)

**'REDACTED' NOTICE OF REMOVAL OF
CIVIL ACTION PURSUANT TO 28 U.S.C.
§1331 and 29 U.S.C. §2617(a)(2)**

Plaintiff,

v.

CENTURY STEEL ERECTORS, INC., a Non-Resident Corporation incorporated under the Laws of Pennsylvania

Defendant.

¹*Redacted To Remove Full Names Of Minor Children*

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TERESA L NESTOR, individually, and as Personal Representative of the Estate of Kelly R. Nestor, deceased, and as parent and next friend for the benefit of her minor Children, G. N. , E. N. and K. N., and for the benefit of others entitled to recover under West Virginia Code, §§ 23-4-2; 23-4-10; 55-7-6; and 55-7-8a(c), including those listed above, and also including Catherin Nestor, the mother of Kelly R. Nestor, and his siblings, Jeff Nestor, Don Nestor, Pam Waugh, Mary Knotts, Teresa Surock, and Nancy Simpson

CASE NO: 1:11-cv-00026-IMK

(Removed from the Circuit Court of Preston County, West Virginia, at Civil Action No. 11-C-40)

Plaintiff,

v.

CENTURY STEEL ERECTORS, INC., a Non-Resident Corporation incorporated under the Laws of Pennsylvania

Defendant.

**'REDACTED' NOTICE OF REMOVAL OF CIVIL ACTION PURSUANT
TO 28 U.S.C. §1331 and 29 U.S.C. §2617(a)(2)**

TO: TERESA L. NESTOR, AND HER COUNSEL OF RECORD, JOHN W. COOPER, ESQ. AND JEFFREY S. BOWERS, ESQ.

PLEASE TAKE NOTICE that, on March 10, 2011, Defendant caused to be filed a 'Redacted' Notice of Removal pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1441, with the United States District Court for the Northern District of West Virginia. A true and correct copy of the Notice of Removal is attached hereto.

Respectfully submitted,

/s/ L. John Argento

L. John Argento, Esq. (#7531)
Edward A. Smallwood, Esq. (#7657)
SWARTZ CAMPBELL LLC
4750 US Steel Tower
600 Grant Street
Pittsburgh, PA 15219
(412) 232-9800
largento@swartzcampbell.com
esmallwood@swartzcampbell.com

Attorneys for Defendant
Century Steel Erectors, Inc., a Non-Resident
Corporation incorporated under the Laws of
Pennsylvania

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TERESA L NESTOR, individually, and as Personal Representative of the Estate of Kelly R. Nestor, deceased, and as parent and next friend for the benefit of her minor Children, G. N. , E. N. and K. N., and for the benefit of others entitled to recover under West Virginia Code, §§ 23-4-2; 23-4-10; 55-7-6; and 55-7-8a(c), including those listed above, and also including Catherin Nestor, the mother of Kelly R. Nestor, and his siblings, Jeff Nestor, Don Nestor, Pam Waugh, Mary Knotts, Teresa Surock, and Nancy Simpson

CASE NO: 1:11-cv-00026-IMK

(Removed from the Circuit Court of Preston County, West Virginia, at Civil Action No. 11-C-40)

Plaintiff,

v.

CENTURY STEEL ERECTORS, INC., a Non-Resident Corporation incorporated under the Laws of Pennsylvania

Defendant.

NOTICE OF REMOVAL

Defendant Century Steel Erectors, Inc. (“Defendant”), hereby removes the action commenced by Plaintiff Teresa L. Nestor (“Plaintiff”) against Defendant, from the Circuit Court of Preston County, West Virginia, to the United States District Court for the Northern District of West Virginia, Clarksburg Division. In support thereof, Defendant states as follows:

1. A civil action was filed by Plaintiff on or about February 23, 2011, and is now pending in the Circuit Court of Preston County, West Virginia, designated as Case No. 11-C-40. A true and correct copy of Plaintiff’s Complaint is attached hereto as Exhibit “A”.

2. According to the Complaint, Plaintiff Teresa L. Nestor ("Plaintiff") is a resident of the State of West Virginia.

3. As is alleged in Plaintiff's Complaint, Defendant is a resident of the State of Pennsylvania.

4. In her Complaint, Plaintiff seeks damages resulting from the death of her husband, Kelly R. Nestor, and she specifically alleges damages in excess of \$2,000,000.00..

5. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

6. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§1332 and 1441 inasmuch as diversity exists, Defendant is not a citizen of the State of West Virginia wherein the Complaint was filed, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

7. Defendant has filed this Notice of Removal within thirty (30) days of their receipt of the Complaint per 28 U.S.C. §1446.

8. Venue is proper in this court pursuant to 28 U.S.C. §1441(a) in that this district and division embrace the county from which this matter is being removed.

9. Concurrent with the filing of this Notice of Removal, Defendant has filed a *Notification of Removal* with the Clerk of the Circuit Court of Preston County, West Virginia, advising the Clerk that the Defendant has removed this action to the United States District Court for the Northern District of West Virginia.

10. In filing this Notice of Removal, Defendant does not waive any affirmative defenses they may assert in this action.

WHEREFORE, Defendant prays that this case be removed from the Circuit Court of Preston County, West Virginia to the United States District Court for the Northern District of West Virginia.

Respectfully submitted,

/s/ L. John Argento

L. John Argento, Esq. (#7531)
Edward A. Smallwood, Esq. (#7657)
SWARTZ CAMPBELL LLC
4750 US Steel Tower
600 Grant Street
Pittsburgh, PA 15219
(412) 232-9800
largento@swartzcampbell.com
esmallwood@swartzcampbell.com

Attorneys for Defendant
Century Steel Erectors, Inc., a Non-Resident
Corporation incorporated under the Laws of
Pennsylvania

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TERESA L NESTOR, individually, and as Personal Representative of the Estate of Kelly R. Nestor, deceased, and as parent and next friend for the benefit of her minor Children, G. N. , E. N. and K. N., and for the benefit of others entitled to recover under West Virginia Code, §§ 23-4-2; 23-4-10; 55-7-6; and 55-7-8a(c), including those listed above, and also including Catherin Nestor, the mother of Kelly R. Nestor, and his siblings, Jeff Nestor, Don Nestor, Pam Waugh, Mary Knotts, Teresa Surock, and Nancy Simpson

CASE NO: 1:11-cv-00026-IMK

(Removed from the Circuit Court of Preston County, West Virginia, at Civil Action No. 11-C-40)

Plaintiff,

v.

CENTURY STEEL ERECTORS, INC.,
a Non-Resident Corporation
incorporated under the Laws of
Pennsylvania

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Redacted Notice of Removal* has been served this 14th day of March, 2011, by electronic case filing, to the following:

John W. Cooper
Cooper & Preston, PLLC
P.O. Box 365
Parsons, WV 26287

Jeffrey S. Bowers
P.O. Box 849
Franklin, WV 26807

Respectfully submitted,

/s/ L. John Argento

L. John Argento, Esq. (#7531)
Edward A. Smallwood, Esq. (#7657)
SWARTZ CAMPBELL LLC
4750 US Steel Tower, 600 Grant Street
Pittsburgh, PA 15219

Attorneys for Defendant
Century Steel Erectors, Inc., a Non-Resident
Corporation incorporated under the Laws of
Pennsylvania